

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Leyah Yisrael,	:	
	:	Case No. 1:24-cv-651
Plaintiff,	:	
	:	Judge Susan J. Dlott
v.	:	
	:	Order Adopting Report and
Kathleen Madden, <i>et al.</i> ,	:	Recommendation and Dismissing
	:	Complaint
Defendants.	:	

Plaintiff Leyah Yisrael, acting *pro se*, filed a Corrected Complaint on November 13, 2024 against thirteen governmental and non-governmental Defendants asserting claims under 42 U.S.C. § 1983 for alleged violations of her constitutional rights. (Doc. 1-4.) Magistrate Judge Karen L. Litkovitz granted Yisrael leave to proceed *in forma pauperis* under 28 U.S.C. § 1915(a)(1). (Doc. 2.) Then, following her screening of the Corrected Complaint under 28 U.S.C. § 1915(e)(2)(B), Magistrate Judge Litkovitz issued a Report and Recommendation recommending that the Corrected Complaint be dismissed. (Doc. 4-1). Yisrael did not file objections to the Report and Recommendation.

I.

Title 28 U.S.C. § 636(b)(1)(B) & (C) and Federal Rule of Civil Procedure 72(b)(1) authorize magistrate judges to make recommendations concerning dispositive motions that have been referred to them. Parties then have fourteen days to make, file, and serve specific written objections to the report and recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). When no objections are filed, “[t]here is no indication that Congress, in enacting § 636(b)(1)(C), intended to require a district judge to review [the] magistrate’s report.” *Thomas v. Arn*, 474 U.S.

140, 152 (1985); *see also Weir v. Centurion*, No. 3:19-CV-00131, 2021 WL 5165930, at *1 (M.D. Tenn. Nov. 5, 2021) (“The district court is not required to review, under a de novo or any other standard, those aspects of the report and recommendation to which no objection is made.”). Still, some district courts follow the Advisory Committee Notes to Rule 72(b) and review the report and recommendation for clear error. *See e.g., Roane v. Warden of Corr. Reception Ctr.*, No. 2:22-CV-2768, 2022 WL 16535903, at *1 (S.D. Ohio Oct. 28, 2022); *Lassiter v. Dullaghan*, No. 1:10-CV-010, 2011 WL 110259, at *1 (S.D. Ohio Jan. 13, 2011). “The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1) (substantively similar).

The Court has reviewed the Corrected Complaint and the Report and Recommendation. When a complaint is filed *in forma pauperis*, a district court may dismiss it upon the court’s own initiative when the complaint “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B). The Court finds no clear error in the Magistrate Judge’s recommendation to dismiss Yisrael’s claims because they fail to state a claim upon which relief can be granted and because certain Defendants are immune from suit.

II.

Accordingly, the Court **ADOPTS** the Report and Recommendation (Doc. 4-1). The Court **DISMISSES** Yisrael's Corrected Complaint (Doc. 1-4). The Court also **CERTIFIES** that an appeal of this Order would not be taken in good faith and **DENIES** Yisrael leave to appeal *in forma pauperis* under 28 U.S.C. § 1915(a)(3).

IT IS SO ORDERED.

BY THE COURT:

S/Susan J. Dlott
Susan J. Dlott
United States District Judge